

device was not lawfully authorized or conducted, the court may, in accordance with the requirements of law, suppress the evidence which was unlawfully obtained or derived from the use of the pen register or trap and trace device, as the case may be, or otherwise grant the motion of the aggrieved person.

(2) If the court determines that the use of the pen register or trap and trace device, as the case may be, was lawfully authorized or conducted, it may deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

(h) Binding final orders

Orders granting motions or requests under subsection (g) of this section, decisions under this section that the use of a pen register or trap and trace device was not lawfully authorized or conducted, and orders of the United States district court requiring review or granting disclosure of applications, orders, or other materials relating to the installation and use of a pen register or trap and trace device shall be final orders and binding upon all courts of the United States and the several States except a United States Court of Appeals or the Supreme Court.

(Pub. L. 95-511, title IV, § 405, as added Pub. L. 105-272, title VI, § 601(2), Oct. 20, 1998, 112 Stat. 2408.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 2712.

§ 1846. Congressional oversight

(a) On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all uses of pen registers and trap and trace devices pursuant to this subchapter.

(b) On a semiannual basis, the Attorney General shall also provide to the committees referred to in subsection (a) of this section and to the Committees on the Judiciary of the House of Representatives and the Senate a report setting forth with respect to the preceding 6-month period—

(1) the total number of applications made for orders approving the use of pen registers or trap and trace devices under this subchapter; and

(2) the total number of such orders either granted, modified, or denied.

(Pub. L. 95-511, title IV, § 406, as added Pub. L. 105-272, title VI, § 601(2), Oct. 20, 1998, 112 Stat. 2410.)

SUBCHAPTER IV—ACCESS TO CERTAIN BUSINESS RECORDS FOR FOREIGN INTELLIGENCE PURPOSES

§ 1861. Access to certain business records for foreign intelligence and international terrorism investigations

(a) Application for order; conduct of investigation generally

(1) The Director of the Federal Bureau of Investigation or a designee of the Director (whose

rank shall be no lower than Assistant Special Agent in Charge) may make an application for an order requiring the production of any tangible things (including books, records, papers, documents, and other items) for an investigation to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities, provided that such investigation of a United States person is not conducted solely upon the basis of activities protected by the first amendment to the Constitution.

(2) An investigation conducted under this section shall—

(A) be conducted under guidelines approved by the Attorney General under Executive Order 12333 (or a successor order); and

(B) not be conducted of a United States person solely upon the basis of activities protected by the first amendment to the Constitution of the United States.

(b) Recipient and contents of application

Each application under this section—

(1) shall be made to—

(A) a judge of the court established by section 1803(a) of this title; or

(B) a United States Magistrate Judge under chapter 43 of title 28, who is publicly designated by the Chief Justice of the United States to have the power to hear applications and grant orders for the production of tangible things under this section on behalf of a judge of that court; and

(2) shall specify that the records concerned are sought for an authorized investigation conducted in accordance with subsection (a)(2) of this section to obtain foreign intelligence information not concerning a United States person or to protect against international terrorism or clandestine intelligence activities.

(c) Ex parte judicial order of approval

(1) Upon an application made pursuant to this section, the judge shall enter an ex parte order as requested, or as modified, approving the release of records if the judge finds that the application meets the requirements of this section.

(2) An order under this subsection shall not disclose that it is issued for purposes of an investigation described in subsection (a) of this section.

(d) Nondisclosure

No person shall disclose to any other person (other than those persons necessary to produce the tangible things under this section) that the Federal Bureau of Investigation has sought or obtained tangible things under this section.

(e) Liability for good faith disclosure; waiver

A person who, in good faith, produces tangible things under an order pursuant to this section shall not be liable to any other person for such production. Such production shall not be deemed to constitute a waiver of any privilege in any other proceeding or context.

(Pub. L. 95-511, title V, § 501, as added Pub. L. 107-56, title II, § 215, Oct. 26, 2001, 115 Stat. 287; amended Pub. L. 107-108, title III, § 314(a)(6), Dec. 28, 2001, 115 Stat. 1402.)

TERMINATION OF SECTION AND OF REPEAL OF
PRIOR SECTION

For termination of section and of repeal of prior section 1861 by section 224 of Pub. L. 107-56, see Termination Date of 2001 Amendment note set out under section 2510 of Title 18, Crimes and Criminal Procedure.

REFERENCES IN TEXT

Executive Order No. 12333, referred to in subsec. (a)(2)(A), is set out as a note under section 401 of this title.

PRIOR PROVISIONS

A prior section 1861, Pub. L. 95-511, title V, §501, as added Pub. L. 105-272, title VI, §602, Oct. 20, 1998, 112 Stat. 2410, defined terms used in this subchapter, prior to repeal by Pub. L. 107-56, title II, §215, Oct. 26, 2001, 115 Stat. 287.

AMENDMENTS

2001—Subsec. (a)(1). Pub. L. 107-108 inserted “to obtain foreign intelligence information not concerning a United States person or” after “an investigation”.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1862 of this title.

§ 1862. Congressional oversight

(a) On a semiannual basis, the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all requests for the production of tangible things under section 1861 of this title.

(b) On a semiannual basis, the Attorney General shall provide to the Committees on the Judiciary of the House of Representatives and the Senate a report setting forth with respect to the preceding 6-month period—

(1) the total number of applications made for orders approving requests for the production of tangible things under section 1861 of this title; and

(2) the total number of such orders either granted, modified, or denied.

(Pub. L. 95-511, title V, §502, as added Pub. L. 107-56, title II, §215, Oct. 26, 2001, 115 Stat. 288; amended Pub. L. 107-108, title III, §314(a)(7), Dec. 28, 2001, 115 Stat. 1402.)

TERMINATION OF SECTION AND OF REPEAL OF
PRIOR SECTION

For termination of section and of repeal of prior section 1862 by section 224 of Pub. L. 107-56, see Termination Date of 2001 Amendment note set out under section 2510 of Title 18, Crimes and Criminal Procedure.

PRIOR PROVISIONS

A prior section 1862, Pub. L. 95-511, title V, §502, as added Pub. L. 105-272, title VI, §602, Oct. 20, 1998, 112 Stat. 2411, related to access to certain business records for foreign intelligence and international terrorism investigations, prior to repeal by Pub. L. 107-56, title II, §215, Oct. 26, 2001, 115 Stat. 287. See section 1861 of this title.

AMENDMENTS

2001—Subsecs. (a), (b)(1). Pub. L. 107-108 substituted “section 1861 of this title” for “section 1842 of this title”.

§ 1863. Repealed. Pub. L. 107-56, title II, §215, Oct. 26, 2001, 115 Stat. 287

Section, Pub. L. 95-511, title V, §503, as added Pub. L. 105-272, title VI, §602, Oct. 20, 1998, 112 Stat. 2412, related to congressional oversight. See section 1862 of this title.

TERMINATION OF REPEAL

For termination of repeal by section 224 of Pub. L. 107-56, see Termination Date of 2001 Amendment note under section 2510 of Title 18, Crimes and Criminal Procedure.

TERMINATION DATE OF REPEAL

Repeal by Pub. L. 107-56 to cease to have effect Dec. 31, 2005, see section 224 of Pub. L. 107-56, set out as a Termination Date of 2001 Amendment note under section 2510 of Title 18, Crimes and Criminal Procedure.

CHAPTER 37—NATIONAL SECURITY SCHOLARSHIPS, FELLOWSHIPS, AND GRANTS

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§ 1901. Short title, findings, and purposes

(a) Short title

This chapter may be cited as the “David L. Boren National Security Education Act of 1991”.

(b) Findings

The Congress makes the following findings: